

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

WRITTEN OPINION (PCT Rule 66)

To:

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DOK IE
704/12

Date of mailing
(day/month/year)

14.02.2005

REPLY DUE

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Applicant's or agent's file reference

71393

International application No.
PCT/EP 03/04202

International filing date (day/month/year)
23.04.2003

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23.04.2003

FRIST notered
IE

International Patent Classification (IPC) or both national classification and IPC
C01B31/00

Applicant

FOC FRANKENBURG OIL COMPANY EST et al.

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 23.08.2005

Name and mailing address of the international preliminary examining authority:



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WRITTEN OPINION

International application No. PCT/EP 03/04202

I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-22

as originally filed

Claims, Numbers

1-6

as originally filed

Drawings, Sheets

1-5

as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-6
Inventive step (IS)	Claims	1-9
Industrial applicability (IA)	Claims	1-6

2. Citations and explanations

see separate sheet

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following document/s/:

D1: DE100 24 312

D2: US 5 614 459

D3: US 5 965 483

D4: US 4 439 349

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-4 is not new in the sense of Article 33(2) PCT.

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 5-6 does not involve an inventive step in the sense of Article 33(3) PCT.

Clarity of claim 1:

The expression "elevated" temperature" is vague in the sense that it does not have a clear technical meaning.

Therefore, claim 1 lacks clarity

Unity:

Claim 1 relates to a method of enlarging micropores of a microporous carbon material; claim 5 relates to a microporous carbon material having pores with specific sizes.

The material of claim 5 need not be the one obtained by the method of claim 1, hence, claim 1 and 5 are only linked by the fact that they both relate to microporous carbon materials. These materials being known per se, claim 1 and 5 lack a novel and inventive link and consequently lack unity.

Unity can be achieved by introducing in claim 5 a reference to claim 1.

Novelty

It is the opinion of this Authority that D1 (DE100 24 312), anticipates the process of present claim 1 : see D1 the whole document, more particularly, col1 lines 35-68, col 2

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SEPARATE SHEET**

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lines 21-30, 35-49, 60-61, col 3 lines 3-14, 32-50, 62 ff, col 4 lines 52-61 and **even more particularly col 5 lines 53-61 and col 6 lines 36-49** (where the two process steps are disclosed)

Hence, Claims 1-4 lack novelty over D1

D2 (US 5 614 459) also appears to be a relevant document (see D2 col 2 lines 5-30, 40-56, col 3 and 4, claims 1, 6; as well as D3 and D4)

In order to speed up the procedure, the applicant is invited to present his analysis of D1-D4.